

(10) State of distillation of domestic types of whisky and straight whisky, except light whisky and blends, in accordance with § 5.36.

(c) In the case of a container which has been excepted under the provisions of § 5.46(d), the information required to appear on the "brand label," as defined, may appear elsewhere on such container if it can be demonstrated that the container cannot reasonably be so designed that the required brand label can be properly affixed.

(Paragraph (b)(7) approved by the Office of Management and Budget under Control No. 1512-0469)

[T.D. 7020, 34 FR 20337, Dec. 30, 1969, as amended by T.D. ATF-25, 41 FR 10220, Mar. 10, 1976; 41 FR 11022, Mar. 16, 1976; T.D. ATF-94, 46 FR 55096, Nov. 6, 1981; T.D. ATF-150, 48 FR 45556, Oct. 6, 1983; 48 FR 46518, Oct. 13, 1983; T.D. ATF-220, 50 FR 51852, Dec. 20, 1985; T.D. ATF-236, 51 FR 34710, Sept. 30, 1986; T.D. ATF-282, 54 FR 7162, Feb. 16, 1989; T.D. ATF-312, 56 FR 31077, July 9, 1991; T.D. ATF-344, 58 FR 40354, July 28, 1993; T.D. ATF-425, 65 FR 11891, Mar. 7, 2000]

§ 5.33 Additional requirements.

(a) *Contrasting background.* Labels shall be so designed that the statements required by this subpart are readily legible under ordinary conditions, and such statements shall be on a contrasting background.

(b) *Location of statements and size of type.* (1) Statements required by this subpart, except brand names, shall appear generally parallel to the base on which the bottle rests as it is designed to be displayed or shall be otherwise equally conspicuous.

(2) Statements required by this subpart, except brand names and the declaration of sulfites in § 5.32(b)(7), shall be separate and apart from any other descriptive or explanatory matters.

(3) If not separate and apart from other descriptive or explanatory matter printed on the label, the statement declaring the presence of sulfites shall be of a size substantially more conspicuous than surrounding nonmandatory labeling information.

(4) Statements of the type of distilled spirits shall be as conspicuous as the statement of the class to which it refers, and in direct conjunction therewith.

(5) Statements required by this subpart, except brand names, shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less capacity, such script, type, or printing shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983).

(6) When net contents are stated either in metric measures or in both metric and U.S. fluid measures, statements required by the subpart, except brand names, shall be in script, type, or printing not smaller than 2 millimeters (or 8-point gothic until January 1, 1983), except that, in the case of labels on bottles of 200 milliliters or less capacity such script, type, or printing shall not be smaller than 1 millimeter (or 6-point gothic until January 1, 1983).

(c) *English language.* The requirements of this subpart shall be stated in the English language, except that the brand name need not be in English, and for products bottled for consumption within Puerto Rico the required information may be stated in the Spanish language if the net contents and, if the product is an imitation, the word "imitation" are also stated in the English language.

(d) *Location of label.* Labels shall not obscure government stamps or be obscured thereby. Labels shall not obscure any markings or information required to be permanently marked in the bottle by other U.S. Treasury Department regulations.

(e) *Labels firmly affixed.* Labels which are not an integral part of the bottle shall be affixed to bottles in such manner that they cannot be removed without thorough application of water or other solvents.

(f) *Additional information on labels.* Labels may contain information other than the mandatory label information required by this subpart if the information does not conflict with, or in any manner qualify, statements required by this part.

(g) *Contents of bottles.* A complete and accurate statement of the contents of the bottles to which labels are to be or have been affixed shall be submitted,

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on request, to the appropriate ATF officer.

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§ 5.34 Brand names.

(a) *Misleading brand names.* No label shall contain any brand name, which, standing alone, or in association with other printed or graphic matter, creates any impression or inference as to the age, origin, identity, or other characteristics of the product unless the appropriate ATF officer finds that such brand name (when appropriately qualified if required) conveys no erroneous impressions as to the age, origin, identity, or other characteristics of the product.

(b) *Trade name of foreign origin.* Paragraph (a) of this section does not prohibit the use by any person of any trade name or brand of foreign origin not effectively registered in the U.S. Patent Office on August 29, 1935, which has been used by such person or his predecessors in the United States for a period of at least 5 years immediately preceding August 29, 1935: *Provided*, That if such trade name or brand is used, the designation of the product shall be qualified by the name of the locality in the United States in which produced, and such qualification shall be in script, type, or printing as conspicuous as the trade name or brand.

§ 5.35 Class and type.

(a) *Designation of product.* The class and type of distilled spirits shall be stated in conformity with § 5.22 if defined therein. In all other instances the product shall be designated in accordance with trade and consumer understanding thereof, or, if no such understanding exists, by a distinctive or fanciful name, and in either case (except as provided in paragraph (b)(2) of this section) followed by a truthful and adequate statement of composition. The word “cordial” or “liqueur” need not be stated in the case of cordials and liqueurs unless the appropriate ATF officer finds such word is necessary to clearly indicate that the product is a cordial or liqueur.

(b) *Products designed in accordance with trade and consumer understanding.* In the case of products designated in accordance with trade and consumer understanding:

(1) A statement of the classes and types of distilled spirits used in the manufacture thereof shall be deemed a sufficient statement of composition in the case of highballs, cocktails, and similar prepared specialties when the designation adequately indicates to the consumer the general character of the product.

(2) No statement of composition is required if the designation through general and established usage adequately indicates to the consumer the composition of the product.

A product shall not bear a designation which indicates it contains a class or type of distilled spirits unless the distilled spirits therein conform to such class and type.

(c) *Origin of whiskies in mixtures.* In the case of any of the types of whisky defined in § 5.22(b), Class 2, which contains any whisky or whiskies produced in a country other than that indicated by the type designation, there shall be stated on the brand label the percentage of such whisky and the country or origin thereof. In the case of mixtures of whisky, not conforming to any type designation in § 5.22(b), Class 2, the components of which were distilled in more than one country, there shall be stated in direct conjunction with the class designation “whisky” a truthful and adequate statement of the composition of the product.

(d) *Whisky manufactured in Scotland, Ireland, or Canada.* All whisky manufactured in Scotland, Ireland, or Canada, shall be deemed to be Scotch, Irish, or Canadian whisky, and shall be so designated, in conformity with § 5.22(b) (7), (8), and (9), unless the application of such designation to the particular product will result in consumer deception, or unless such a product is not entitled to such designation under the laws of the country in which manufactured.

(e) *Cordials and liqueurs.* The alcoholic components of cordials and liqueurs may, but need not, be stated on labels.